Kerala Gazette No. 11 dated 15th March, 1960.

PART III

THE KERALA HIGH COURT SERVICE RULES

In xerciso ot the powers conferred by Artlele's 229(1) and (2) of the Conslllullon ot India, the Chlet Justlce ot the High Court of Kerala, with the approval ot lho Governor ot Kerala so tar as lhe rules relate to salaries, allowances, leave, and pension, hereby makea the following rules lo regulalo lhe reerullmenl and lhe eondilions ot service ot lhe officers and servanls ot the Kerala High Conrt who shall form a service known as the Korala High Court Servico herelnatter reterred lo as "the Service".

1. *Short title, commencement and extent.*—(l) These rulea moy be called the "Kerala High Conrt Service Rnles", 1959, and shall como lnlo toreo on tho dale ot publlcatlon ln the Kerala Gazelle.

(ii) They shall apply to all members ot the servlee whether nppelnted betore or atler their coming lnlo torce.

(iii) When a posl is creoled as temporary addition to lho eadre ot tho Service in any dlvision or calogory lhoreot, these rules applicablo to holders ot permanenl posl borno on the sald cadre shall apply lo lho holder of the said temporary posl.

Explanation.—in this snb-rule, the expression "lhe holder ot tho sald temporary post" shall mean the person conmled against the sald temporary posl.

2. *Definitions.*—For lhe purposo ot lhese rules—

(a) *"Appointed to the servieo".*—A person is sald to be "Appolnted to lho servlee" when, ln accordance with lhose rules or in accordance with tho rules applicable at lhe time as the ease may be, he discharges for the first time tho dutles ot a post borne on lhe eadre ot the service or commencos tho proballon prescrlbed for the members thereof.

(b) *"Approved probationer".*—"Approved Proballoner" means a momber of the sorvice who has satlstaclorily compleled his proballon and awaits appointmenl as a full member ot the service, divislon, category, sub-category or post, as lhe ease may be.

(c) *"Chief Justice".*—Chief Juslico means lhe Chief Justlce of the High Conrt of Kerala.

(d) *"Duty".*—A person is sald to be "on dnly" as a member of the service—

(1) when he ls pertorming lhe dnties ot a post borne on lhe cadre ot the servlee or is undergoing proballon;

(2) when he is on joining time; or

(3) when he is absent from duty during vacallon or on aulhorised holidays or on casual leave laken in accordance with the lnstructions regulating such leave issued by the State Government, having been on duty immediately betore and immedialely after such absence.

(e) *"Full member".*—"Full member" moans a member of lho service who has been appointed substantively to a permanent posl borne on the cadre thereof.

(f) *"High Court"*.—Means the High Court of Kerala.

(g) *"Member of Service"*.—"Member of the Service" means a person who has been appointed to the service and who has not retired or resigned, been removed or dismissed, been substantively transferred or reduced to another service, or been discharged otherwise than for want of a vacancy. He may be a probationer, an approved probationer or a full member of the service.

(h) *"Probationer"*.—"Probationer" means a member of the service or category as the case may be who is neither a full member nor an approved probationer therein.

(i) *"Promotion"*.—"Promotion" means the appointment of a member of the service to a post in the service on a higher scale of pay.

(j) *"Recruited direct"*.—A candidate is said to be "recruited direct" to the service when at the time of his first appointment thereto, he is not a member of any service.

(k) *"Recruited by transfer"*.—A candidate is said to be "recruited by transfer" to the service when at the time of his first appointment thereto, he is a member of another service.

(l) *Backward Classes", "Scheduled Castes and Scheduled Tribes"* mean the Castes and Tribes declared as such by the President of India under Article 341(1) and 342(1) of the Constitution of India and other Backward Class mean the class declared as such by the State Government under Article 16(4) of the Constitution of India. List of such Classes, Castes and Tribes so declared are included in lists I, II and III respectively in the Schedule to Part I of the General Rules for the Kerala State and Subordinate Services Rules, 1958.

3. *Interpretation*.—Any doubt regarding the interpretation of these Rules shall be decided by the Chief Justice whose decision shall be final.

4. *Constitution*.—The service shall consist of the following divisions, categories and sub-categories of officers:—

DIVISION I (GAZETTED POSTS)

Category.	*Posts.*
1.	Registrar.
2.	Deputy Registrar.
3.	Assistant Registrars.
4.	Superintendents.

DIVISION II (NON-GAZETTED SUPERIOR SERVICE)

Category.	*Post.*
1.	Head Translator.
2.	Translators.
3.	Upper Division Clerks.
4.	Upper Division Typists.
5.	Stenographers.
6.	Lower Division Clerks.
7.	Lower Division Typists.
8.	Typists-Copyists.
9.	Copyists.
10.	Library Assistants.
11.	Attenders.

DIVISION III (MISCELLANEOUS)

1. Police Sergeant.
2. Civil Sergeant.

DIVISION IV (LAST GRADE)

1. (a) Duffadars.
   (b) Court Keepers.
2. Peons including Mochees, Cycle Peons and Chowkidars.

5. *Appointing authority.*—The Chief Justice shall be the appointing authority for all posts:

Provided that the Registrar may transfer any member of the service in Division II and IV from one post to any other post in the same scale of pay for which he is qualified;

Provided that re-appointment to any post other than a post in Division I under rule 13(a) (2) shall be by the Registrar.

6. (i) Appointment to categories 1 to 3 in Division I, may be by transfer, promotion or direct recruitment. In making the selection the Chief Justice may consult any other Judge or Judges.

(ii) Appointment to category 4 in Division I shall be by promotion from categories 1, 2 and 3 in Division II or by transfer.

(iii) Appointment to category 1 in Division II shall be by promotion from category 2 of Division II or by transfer or by direct recruitment and to category 2 by promotion from category 6 of Division II or by transfer or by direct recruitment.

(iv) Appointment to category 3 of Division II shall be by promotion from category 6 of Division II or by transfer.

(v) Appointment to category 4 of Division II shall be by promotion from category 7 of Division II or by transfer.

(vi) Appointment to category 5 of Division II shall be by promotion from categories 6 or 7 of Division II or by transfer or by direct recruitment.

(vii) Appointment to category 6 of Division II shall be by promotion from categories 8 and 9 of Division II or by transfer or by direct recruitment.

(viii) Appointment to category 7 of Division II shall be by promotion from category 8 of Division II or by transfer or by direct recruitment.

(ix) Appointment to category 8 of Division II shall be by promotion from category 9 of Division II or by transfer or by direct recruitment.

(x) Appointment to category 9 in Division II shall be by transfer or by direct recruitment.

(xi) Appointment to category 10 in Division II shall be by promotion from category 11 of Division II or from category 1 of Division IV.

(xii) Appointment to category 11 of Division II shall be by promotion from category 2 of Division IV.

(xiii) Appointment to category 1 of Division III shall be by transfer from the Police Department and to category 2 thereof by promotion from category 1 of Division IV or by direct recruitment.

(xiv) Appointment to category 2 of Division IV shall be by direct recruitment or transfer.

7. *Seniority.*—The seniority of a member of the service, division, category or post shall unless he has been reduced to a lower rank as a punishment be determined by the date of his first appointment to the service, division, category or post. Where any difficulty or doubt arises in applying this rule, seniority shall be determined by the appointing authority. If any portion of the service of such person does not count towards probation his seniority shall be determined by the date of the commencement of the service which counts towards probation.

The appointing authority may, at the time of passing an order appointing two or more persons simultaneously to a category or post fix the order of preference among them and where such order has been fixed the seniority shall be determined in accordance therewith.

8. *Qualifications.*—(a) General—Every candidate for appointment to the High Court Service by direct recruitment shall be—

(1) a citizen of India,

(2) over 18 but below 25 years of age,

(3) of sound health, active habits and free from bodily defect or infirmity unfitting him for the service, and

(4) of good character and conduct:

Provided that the age limit prescribed in this clause shall not apply to appointment to the service in categories 1 to 3 in Division I.

(b) *Special.*—No person shall be eligible for appointment to any of the posts referred to in column 2 of Appendix I unless he possesses the general educational and Special Test qualifications specified in the corresponding entries in columns 3 and 4 thereof.

9. *Security.*—Any person appointed to the post of Accountant (Upper Division Clerk—Category III in Division II) or Superintendent in the Accounts Section shall for the due and faithful performance of the duties attached thereto deposit security in the form specified in Art. 198 Travancore Financial and Account Code in the sum of Rs. 1,000 in the case of the Accountant and Rs. 2,000 in the case of the Superintendent.

10. *Probation.*—(a) Every person appointed to the service otherwise than by promotion or transfer shall be on probation for a total period of two years on duty within a continuous period of three years.

(b) Every person promoted from any post in the service to a higher post on a higher scale of pay or transferred to the service on a higher scale of pay shall be on probation for a total period of one year on duty.

(c) A probationer in any category of the service, who is appointed to a post carrying a higher scale of pay, shall be entitled to count towards his probation in the former category any period of duty in the latter post, if during such period he would have held a post in the former category but for such appointment.

11. *Probation—termination.*—(a) The appointing authority may at any time, at its discretion, by order, terminate the probation of a probationer and discharge him after giving him a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

(b) *Penalty for failure to pass tests.*—(1) If within his period of probation a probationer fails to pass the prescribed special tests, the appointing authority shall, by order, discharge him unless it extends the period of probation under rule 12.

(2) If such probationer has appeared within the period of probation for any such test, and the results of the tests for which he has so appeared are not known before the expiry of such period he shall continue to be on probation until the publication of the results of the tests for which he has appeared or the first of them in which he fails to pass, as the case may be. In case the probationer fails to pass any of the tests, the appointing authority shall forthwith, by order, discharge him unless the period of probation is extended under rule 12.

(c) *Approved probationers.*—(1) If at the end of the prescribed or extended period of probation, as the case may be, the appointing authority considers the probationer to be suitable for full membership it shall issue an order declaring the probationer to have satisfactorily completed his period of probation. On the issue of such order, the probationer shall be deemed to have satisfactorily completed his probation on the date of expiry of the prescribed or extended period of probation as the case may be.

(2) *Termination of probation.*—If the appointing authority does not then consider the probationer to be suitable for such membership, it shall, discharge him from the service after giving him a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

(3) A probationer who is discharged otherwise than for want of vacancy or failure to pass the prescribed tests shall be entitled to appeal against the order of discharge as if it were an order of dismissal.

12. *Extension of probation.*—In the case of any probationer falling under sub-rule (b) or clause (2) of sub-rule (c) of rule 11, the appointing authority may extend his probation to enable him to acquire the special qualifications or pass the prescribed tests or, as the case may be, to enable the appointing authority to decide whether the probationer is suitable for full membership or not. Such extended period of probation shall terminate at the latest when the probationer has, after the date of expiry of the period of probation prescribed for the category in which he is on probation, completed one more year of duty in such category. In cases where the probation of a probationer is extended, a condition shall, unless there are special reasons to the contrary, be attached to the order of extension of probation that the probationer's increment shall be stopped until he is declared to have satisfactorily completed his probation. If however, the probationer has already drawn an increment his next increment shall be postponed until he is declared to have satisfactorily completed his probation and by the period for which his probation is extended. Such stoppage of increment shall not be treated as a penalty but only as a condition of extension of probation and shall not have the effect of postponing future increments after he has passed the prescribed tests or examinations or after he is declared to have satisfactorily completed his probation.

13. (a) *Discharge of probationers and approved probationers for want of vacancies and their re-appointment.*—(1) Probationers and approved probationers shall be discharged for want of vacancy in the following order:—

(i) First, the probationers in order of juniority, and

(ii) Second, the approved probationers in order of juniority.

(2) Approved probationers and probationers who have been discharged for want of vacancies shall be re-appointed as vacancies arise, in the inverse of the order laid down in item (i) or (ii) of Clause (1).

(a) The order of discharge or re-appointment prescribed above may be departed from in cases where its observance would involve exceptional administrative inconvenience.

(b) *Right of appointment of probationers and approved probationers.*—A vacancy in any category in the service shall not be filled by the appointment of a person who has not yet commenced his probation therein when an approved probationer or a probationer therein is available for such appointment.

14. *Appointment of full members.*—Subject to the provisions of rule 22 an approved probationer shall, if a substantive vacancy in the permanent cadre of the category for which he was selected exists, be appointed to be a full member of the service in such category at the earliest possible opportunity; and if such vacancy existed from a date previous to the issue of the order of appointment, he may be so appointed with retrospective effect from such date or, as the case may be, from a subsequent date from which he was continuously on duty as a member of the service in such category or in a higher category:

Provided that—

(1) Where more than one approved probationer is available for such appointment as full member the senior-most probationer on the date of the vacancy shall be appointed.

(2) If by reason of a departure from the ordinary rule in the interest of administrative convenience a member of the service completes his probation earlier than another member of the service who is senior to him, the member who so completes his probation earlier shall not be confirmed before the member who is senior to him. The senior member shall be confirmed according to his seniority in the service after he completes satisfactorily the period of his probation.

Explanation.—For the purposes of this rule an approved probationer when on leave or other duty shall be deemed to be on duty as a member of the service in the category concerned, if he would have been on duty in such category or in a higher category but for the absence on leave or deputation.

15. *Promotion.*—All categories in Division I and Categories 1 to 5 in Division II shall be selection categories and promotion thereto shall be made on grounds of merit and ability, seniority being considered only where merit and ability are approximately equal.

In making promotions the following principles shall be followed:—

Promotion to Superintendent's post.—The existing non-graduate upper division clerks will be eligible for promotion for the post of Superintendent, if considered efficient and fit by the Chief Justice and not to higher posts. In making the promotion a ratio of 1:1 between non-graduates and graduates will be observed.

Promotion to upper division posts.—As between a graduate and non-graduate minimum service for graduates for promotion from lower division to upper division will be three years and for non-graduates seven years. In addition there will be a ratio of 1:1 between graduates and non-graduates for promotion from lower division to upper division.

A graduate who is senior to a non-graduate will not be superseded by the application of this ratio. This ratio will however be temporary till the last of the existing non-graduates in a category is promoted to the next higher category, after which there will be no ratio.

If an eligible candidate from one category is not available when a chance for promotion comes, it will go to the candidate in the other category. The promotions will be subject to suitability in all cases.

16. *Temporary appointments.*—(a) Where it is necessary to fill a vacancy in any category of the service and there would be undue delay or administrative inconvenience in appointing a person who is qualified for or entitled to such appointment or a duly qualified person is not available, the appointing authority may appoint any other suitable person temporarily until an appointment is made in accordance with these rules.

(b) (i) A person appointed under sub-rule (a) shall be replaced as soon as possible by a member of the service who is entitled to promotion under these rules, or, as the case may be, by a candidate qualified to hold the post under the rules.

(ii) A person appointed under sub-rule (a) shall not be regarded as a probationer in such category or be entitled by reason only of such appointment to any preferential claim to future appointment to such category.

If such a person is subsequently appointed to the category in accordance with these rules he shall commence his probation in such category from the date of such subsequent appointment or from such earlier date as the appointing authority may determine.

(c) A temporary appointment of a person under clause (a) shall not be made for a period exceeding three months at a time.

17. *Penalties.*—The following penalties may, for good and sufficient reason and as hereinafter provided be imposed upon members of the services, namely:—

(i) censure;
(ii) fine (in the case of members of the service of Division IV (last grade);
(iii) withholding of increments or promotion including stoppage at an efficiency bar;
(iv) reduction to a lower rank in the seniority list or to a lower post or time-scale;
(v) recovery from pay of the whole or part of any pecuniary loss caused to the State Government or the Central Government or to a local authority by negligence or breach of orders;
(vi) reduction of pension;
(vii) compulsory retirement;
(viii) removal from service;
(ix) dismissal from service;

Explanation I.—The discharge—

(a) of a person appointed on probation before the expiry or at the end of the prescribed or extended period of probation; or

(b) of a person engaged under contract, in accordance with the terms of his contract; or

(c) of a person appointed otherwise than under contract to hold a temporary appointment on the expiration of the period of the appointment

shall not amount to removal or dismissal within the meaning of this rule.

II. The removal of a person from the service shall not disqualify him from future employment but the dismissal of a person from the service shall ordinarily disqualify him from future employment.

III. The retirement of a member of the service on the completion of the age of superannuation or otherwise in accordance with the provisions of the service regulations for the time being in force shall not amount to compulsory retirement within the meaning of this rule.

18. *Procedure for imposing penalties.*—(1) The forms of penalties that may be imposed on the several classes of officers and the authority who may impose these penalties are shown in Appendix II. The fact that a lower authority has imposed or declined to impose a penalty in any case shall not debar the higher authority from exercising its jurisdiction under this rule in respect of the same case.

(2) In every case where it is proposed to impose on a member of the service any of the penalties specified in items (i), (ii), (iii), (v) and (vi) of rules 17 he shall be given a reasonable time, not generally exceeding 1 month for any representation that he may desire to make and such representations, if any, shall be taken into consideration before the order imposing the penalty is passed;

Provided that the requirements of this sub-rule may, for sufficient reasons, to be recorded in writing, be waived when there is genuine difficulty in observing them and they can be waived without injustice to the person concerned.

(3) When it is proposed to impose on the member of the service any of the penalties specified in items (iv), (vii), (viii) and (ix) of rule 17, the grounds on which it is proposed to take action shall be reduced to the form of a definite charge or charges which shall be communicated to the person charged together with a statement of the allegations on which each charge is based and of any other circumstances which it is proposed to take into consideration in passing orders on the case. He shall be required, within a reasonable time ordinarily not exceeding one month to put in a written statement of his defence and to state whether he desires an oral inquiry or only to be heard in person. If he so desires or if the authority concerned so directs an inquiry shall be held.

At that enquiry documentary evidence may be adduced and oral evidence shall be heard as to such of the allegations as are not admitted provided that the officer conducting the inquiry may for special and sufficient reasons to be recorded in writing refuse to call a witness. The person charged shall be entitled to cross-examine the witnesses called. After the inquiry has been completed the person charged shall be entitled to put in, if he so desires, any further written statement of his defence, and may be heard orally, if the enquiring authority permits.

(4) The proceedings shall contain a reasonably sufficient record of the evidence and a statement of the findings and the grounds thereof. In cases where the inquiring officer comes to a conclusion that the charges have not been made out, he shall in addition record a further finding as to whether in his opinion the member of service is free from any blame.

Provided that this sub-rule shall not apply—

(a) where a member of the service is dismissed, removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge; or

(b) when the Chief Justice is satisfied that for some reason to be recorded in writing it is not reasonably practicable to give that member an opportunity of showing cause; or

(c) when the Chief Justice is satisfied that in the interest of the security of the State, it is not expedient to give to that member such an opportunity.

Note.—If any question arises whether it is reasonably practicable to give to any member an opportunity of showing cause under clause (b) of the proviso or whether it is expedient or not to give an opportunity under clause (c) the decision of the Chief Justice shall be final.

(5) The member of the service against whom an inquiry is held shall be furnished with a copy of the report of inquiry together with the findings thereon and he shall be called upon to show cause within a reasonable time not exceeding one month, against the particular penalty, proposed to be inflicted on him. The representations, if any, submitted by the member of the service shall be taken into consideration before the final order imposing the penalty is passed.

(6) The member of the service charged shall be allowed to peruse all or any of the records pertaining to the case or be furnished with certified copies thereof, if he so desires, either before or after the inquiry. However, if in any case it is considered that a certain record required by the member of the service charged cannot be furnished or disclosed to him in public interest or for any other substantial reasons he shall be informed accordingly and the fact of such refusal together with the reasons therefor shall be recorded in writing.

Note.—The non-compliance with the request of the member of the service charged in such case will not vitiate the orders of the authority imposing the penalty on that score, if the orders are passed after duly taking into account the principles of natural justice.

(7) (i) The appointing authority may place a member of the service under suspension, where—

(a) an inquiry into his conduct is contemplated, or is pending, or

(b) a complaint against him of any criminal offence is under investigation or trial.

Note.—A member of the service who is detained in custody, whether on a criminal charge or otherwise for a period longer than forty-eight hours shall be deemed to have been suspended by the Chief Justice under this sub-rule.

An order of suspension under this sub-rule may be revoked at any time by the appointing authority.

(ii) A person under suspension preliminary to the departmental inquiry shall be granted such subsistence and other allowances as may be admissible under the Service Regulations.

(8) The departmental inquiry shall be conducted expeditiously, especially so if the officer concerned is under suspension.

(9) The inquiry may be held by the punishing authority or by an officer nominated by the punishing authority for the purpose and in the latter case such officer shall send his report to the punishing authority.

(10) (i) The authority imposing any penalty under these rules shall maintain a record showing:—

(a) the allegation upon which action was taken against the person punished;

(b) the charges framed, if any;

(c) the person's representations, if any, and the evidence taken if any, and

(d) the finding and the grounds thereof, if any.

(ii) All orders of punishment shall also state the grounds on which they are based and shall be communicated in writing to the person against whom they are passed.

(11) The proceedings of the departmental enquiry against a member of the service who belongs to any other department of Government together with the findings thereon and the recommendations of the enquiring authority shall be transmitted to his parent department for such action as it deems necessary and his services shall be replaced at the disposal of that department.

19. *Appeals.*—(1) Every member of the service shall be entitled to appeal from any order which (a) imposes upon him any of the penalties specified in rule 17 or (b) places him under suspension under sub-rule 7 of Rules 18 or (c) alters or interprets to his disadvantage any rule by which his conditions of service are regulated.

(2) An appeal against the order of the Registrar shall lie to the Chief Justice and an appeal against the order of the Chief Justice shall lie to a Bench of three Judges consisting of the Chief Justice and two other Judges nominated by him. The appellate order of the Chief Justice or, as the case may be, of the Bench of three Judges shall be final.

(3) Every person preferring an appeal shall do so separately in his own name.

(4) Every appeal preferred under these rules shall contain all materials, statements and arguments relied on by the appellant, shall contain no disrespectful or improper language, and shall be complete in itself. Every such appeal shall be addressed to the Chief Justice and submitted through the Registrar.

(5) An appeal may be withheld by an authority not lower than the authority from whose order it is preferred, if—

(i) it is an appeal in a case in which under these rules no appeal lies; or

(ii) it does not comply with the provisions of sub-rules (3) and (4) above; or

(iii) it is not preferred within two months after the date on which the appellant was informed of the order appealed against, and no reasonable cause is shown for the delay; or

(iv) it is a repetition of a previous appeal and is made to the same appellate authority by which such appeal has been decided; or

(v) it is addressed to an authority to which no appeal lies under these rules:

Provided that in every case in which an appeal is withheld, the appellant shall be informed of the fact and the reasons for it;

Provided further that an appeal withheld on account only of failure to comply with the provisions of sub-rules (3) and (4) above may be resubmitted at any time within one month of the date on which the appellant has been informed of the withholding of the appeal, and, if resubmitted in a form which complies with those provisions shall not be withheld.

(6) No appeal shall lie against the withholding of an appeal by a competent authority.

(7) In the case of appeals under clauses (a) and (b) of sub-rule (1) the Appellate Authority shall consider:—

(a) whether the facts on which the order was based have been established;

(b) whether the facts established afford sufficient grounds for taking action;

(c) whether the penalty is excessive, adequate or inadequate

and after such consideration shall pass such orders as it thinks proper, confirming, altering or reversing the order appealed against or remitting reducing or enhancing the penalty:

Provided that no penalty shall be enhanced unless opportunity is given to the person concerned to show cause why the penalty should not be enhanced.

In the case of appeals under clause (c) of the said sub-rule (1) the appellate authority shall pass such order as appears to it to be just and equitable, having regard to all the circumstances of the case.

20. If a full member of any category or grade in the service is substantively reduced to a lower category or grade, he shall be deemed to be a full member of the latter, and the permanent cadre thereof shall, if there is no vacancy in which he can be absorbed be deemed to be increased by one so long as such member continues therein:

Provided that against every such addition an officiating or temporary vacancy, if any, in such lower category or grade, shall be kept unfilled and such addition shall be absorbed in the first permanent vacancy that subsequently arises in such lower category or grade, as the case may be.

21. *Relinquishment of right by members.*—Any person may, in writing, relinquish any right or privilege to which he may be entitled under these rules; and nothing contained in these rules shall be deemed to require the recognition of any right or privilege to the extent to which it has been so relinquished.

22. *Members absent from duty.*—The absence of a member of the service from duty, whether on leave, or foreign service or on deputation or for any other reason and whether his lien in a post borne on the cadre of the service is suspended or not, shall not, if he is otherwise fit, render him ineligible in his turn—

(a) for re-appointment to a vacancy in the category in which he may be a probationer or an approved probationer; or

(b) for promotion from a lower to a higher post in the service.

23. *Pay, Allowances, Leave, Leave Salary, Pension and other conditions of Service.*—The Travancore Service Regulations, the Cochin Service Regulations, the Kerala Service Rules, the State Provident Fund Rules (Travancore), the Provident Fund Rules (Cochin), the Fundamental Rules, the Madras Leave Rules, Madras Pension Code, the General Provident

Fund (Madras) Rules, the Madras Contributory Provident Fund-Pension-Insurance Rules, 1950, and the Rules regulating the pay of the Services and other rules for the time being in force applicable to Officers under the rule making control of the Government of Kerala, as the case may be, shall govern the members of the service in the matter of their pay, allowances, leave, leave salary, pensions and other conditions of service:

(1) Provided that except with regard to salaries, allowances, leave and pensions, the Chief Justice shall exercise the powers vested in the Governor under any of the aforesaid rules.

(2) Provided also that the Chief Justice shall specifically issue orders sanctioning the grant of the scales of pay and allowances to the members of service in accordance with the scales of pay and allowances sanctioned by Government.

24. *Savings.*—Nothing in these Rules shall affect any member of an All India Service when holding any post in the High Court and nothing in these rules shall adversely affect any person who was a member of the service on the date of coming into force of these rules.

25. Nothing in these rules shall be construed to limit or abridge the power of the Chief Justice to deal with the case of any member of the service or any person to be appointed to the service in such manner as may appear to him to be just or equitable:

Provided that where any such rule is applicable to the case of any person, the case shall not be dealt with in any manner less favourable to him than that provided by that rule.

ANNEXURE I

Division & Category (1)	Post (2)	General & Educational Qualification (3)	Special Test Qualification (4)
Division I.			
Category 1	Registrar	Judicial Officer of the State in the grade of District Judge or Advocate or Law Degree and a B. A. or B. Sc., or B. Com., or B. A. (Hons.), or B. Sc. (Hons.), or B. Com. (Hons.) Degree of a University in the Indian Union and the Examination in Law of Practice and procedure, Civil and Criminal	
Category 2	Deputy Registrar	Judicial Officer of the State in the grade of Subordinate Judge or Advocate or a Law Degree and a B. A., or B. Sc., or B. Com., or B. A. (Hons.) or B. Sc. (Hons.) or B. Com. (Hons.) Degree of a University in the Indian Union and the Examination in Law of Practice and Procedure, Civil and Criminal	
Category 3	Assistant Registrars	B. A., or B. Sc., or B. Com. or B. A. (Hons.) or B. Sc. (Hons.) or B. Com. (Hons.) Degree, a Law Degree of a University in the Indian Union and the Examination in Law of Practice and Procedure, Civil and Criminal	Account Test—Lower
Category 4	Superintendents	B. A., or B. Sc., or B. Com., or B. A. (Hons.) or B. Sc. (Hons.) or B. Com. (Hons.) Degree of a University in the Indian Union Note.—Non-graduates will be eligible for promotion in the ratio of 1 : 1 as mentioned in the rules.	1. Secretarial Manual Test 2. Account Test (Lower) 3. Judicial Test (Civil and Criminal) or An equivalent test

ANNEXURE I (contd)

Division & Category (1)	Post (2)	General & Educational Qualification (3)	Special Test Qualification (4)
Division II. Categories 1 & 2	Head Translator and Translators	B. A., or B. Sc., or B. Com., or B. A. (Hons.) or B. Sc. (Hons.) or B. Com. (Hons.) Degree of a University in the Indian Union Non-graduates will be eligible for promotion in the ratio of 1 : 1 as mentioned in the rules	1. Secretariat Manual Test. 2. Account Test—Lower. 3. Judicial Test (Civil and Criminal) or an equivalent test. Must pass Translation Test to be conducted by the Registrar of High Court under the directions of the Chief Justice in the case of a direct recruit.
Category 3	Upper Division Clerks	do.	1. Secretariat Manual Test 2. Account Test—Lower. 3. Judicial Test (Civil and Criminal) or an equivalent test.
Category 5	Stenographers	S. S. L. C. or E. S. L. C. Shorthand Higher (Government Technical Examination or L. C. C.) Typewriting Higher or Diploma in Shorthand and Typewriting *Note:*—Preference shall be given to Graduates with the above qualification in Shorthand and Typewriting. If candidates with "Higher" qualification are not available persons with "Lower" qualification may be appointed but the Stenographer should secure the "Higher" qualification at least in Shorthand before confirmation.	

Category 6	Lower Division Clerks	B. A., B. Sc., or B. Com., or B. A. (Hons.) or B. Sc. (Hons.) or B. Com. (Hons.) Degree of a University in the Indian Union	
Categories 4 & 7	Upper Division Typists and Lower Division Typists	S. S. L. C. or E. S. L. C., Typewriting Higher (Government Technical Examination or L. C. C.) Note:—Candidates with Typewriting "Lower" qualification may be appointed to category 7, if candidates with "Higher" qualification are not available. Existing incumbents with Typewriting "Lower" qualification may be promoted to category 4—Upper Division Typist—if they are found to be efficient.	
Category 8	Typist-Copyists (English) do. (Malayalam)	S. S. L. C. or E. S. L. C., Typewriting—Lower (Government Technical Examination or L. C. C.) III Form, Typewriting—Lower (Malayalam)	
Category 9	Copyists (Malayalam)	S. S. L. C. or E. S. L. C.	(Handwriting must be good. Must be able to write clearly and legibly).
Category 10	Library Assistants	III Form	(Those with two years experience in the Library may be preferred).
Category 11	Attenders	III Form	
Division III.			
Category 1	Police Sergeant	A Sub Inspector to be deputed from the Police Department, and selected by the Chief Justice	
Category 2	Civil Sergeant	Must be literate. (Preference shall be given to persons who have passed III Form and who possess a good personality)	

ANNEXURE I (contd.)

Division & Category (1)	Post (2)	General & Educational Qualification (3)	Special Test Qualification (4)
Division IV.			
Category 1 (a)	Duffadars	Must be literate	
(b)	Court Keepers		
Category 2	Peons, Moohees, Gardeners, Watchmen etc.		In respect of Gardeners, preference shall be given to those who have got experience in gardening work.

ANNEXURE II

Sl. No.	Class of Officers	Penalty	Authority which may impose the penalty
1	Division I— Categories 1 to 4	Censure	Chief Justice
2	All categories in Divisions II, III and IV	do.	Registrar
3	Division IV—Categories 1 & 2	Fine	Registrar
4	Division I—Categories 1 to 4	Withholding increments or promotion including stoppage at an efficiency bar	Chief Justice
5	All categories in Divisions II, III & IV	Withholding increments including stoppage at an efficiency bar	Registrar
6	do.	Withholding promotion	Chief Justice
7	Division I—Categories 2, 3 & 4 and all categories in Division II	Reduction to a lower rank in the seniority list or to a lower post or time scale	Chief Justice
8	All categories in Divisions III & IV	do.	Registrar
9	All categories in all Divisions except category 1 in Division III	Recovery from pay of the whole or part of any pecuniary loss caused to the State Government or the Central Government or to a local authority by negligence or breach of orders	Chief Justice
		Reduction of pension, compulsory retirement, removal from service, dismissal from service	—

High Court of Kerala,
Ernakulam,
Dated 3—3—1960.

(By order)
P. U. Kuriakose,
Registrar.

REGISTERED No. M. 4631.

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

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Legislature Secretariat

NOTIFICATION

No. 808|LA.4|60.

Dated, Trivandrum 15th March 1960.

The following Bill together with the Statement of Objects and Reasons is published, as ordered by the Speaker under Rule 73 of the Rules of Procedure and Conduct of Business in the Assembly.

D. TIRUMALAI IYENGAR,
Secretary,
Legislative Assembly.

L. A. Bill No. 4 of 1960.

THE GENERAL SALES TAX (AMENDMENT) BILL, 1960

A

Bill

to amend the General Sales Tax Act, 1125 and validate certain notifications, orders and proceedings under the Act.

Preamble.—WHEREAS it is necessary to amend the General Sales Tax Act, 1125, for the purpose hereinafter appearing and to validate certain notifications, orders and proceedings under the said Act;

Be it enacted in the Eleventh Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the General Sales Tax (Amendment) Act, 1960.

2. *Amendment of section 5, Act XI of 1125.*—(1) In section 5 of the General Sales Tax Act, 1125 (hereinafter referred to as the principal Act), for clause (vii), the following clause shall be substituted, namely:—

"(vii) the sale of goods specified in column (2) of Schedule I shall be liable to tax under section 3, sub-section (1), only at such single point in the series of sales by successive dealers as may be specified by the Government by notification in the Gazette; and, where the taxable point so specified is a point of sale, the seller shall be liable for the tax on the turnover for which the goods are sold by him at such point, and where the taxable point so specified is a point of purchase, the buyer shall be liable for the tax on the turnover for which the goods are bought by him at such point."

(2) The amendment made by sub-section (1) shall be deemed to have come into force with effect from the first day of October 1957.

3. *Validation of certain notifications, orders, etc.*—Notwithstanding anything contained in any judgment, decree or order of any court—

(a) all notifications issued on or after the 28th day of September 1957 by the Government in exercise of the powers conferred on them by clause (vii) of section 5 of the principal Act shall be deemed to have been issued under the principal Act as amended by this Act, on the respective dates on which the said notifications were issued:

Provided that Notification II No. H1-10674|57|RD. 2, dated 28th September, 1957, shall be deemed to have been issued on the first day of October 1957;

(b) all taxes levied, assessed or collected in pursuance of the notifications issued under clause

(vii) of section 5 of the principal Act shall for all purposes be deemed to be and to have always been validly levied, assessed or collected; and

(c) all proceedings taken, orders passed and acts done by any officer, authority or Tribunal in pursuance of the notifications issued under clause (vii) of section 5 of the principal Act shall for all purposes be deemed to be and to have always been validly taken, passed and done, and all such proceedings, orders and actions may be continued as if the notifications in pursuance of which they were taken, passed and done were issued under clause (vii) of section 5 of the principal Act as amended by this Act:

Provided that nothing in this Act shall render any person liable to be convicted of an offence in respect of anything done or omitted to be done by him before the date of publication of this Act in the Gazette, if such act or omission was not an offence under the principal Act at the aforesaid date but for the provisions of this Act.

4. *Repeal.* The General Sales Tax (Amendment) Ordinance, 1960 (Ordinance 1 of 1960) is hereby repealed.

STATEMENT OF OBJECTS AND REASONS

Clause (vii) of section 5 of the General Sales Tax Act, 1125 provided that the sales of goods specified in Schedule I shall be liable to tax at such single point in the series of sales by successive dealers as may be specified by the Government by notification in the Gazette. In pursuance of this clause Government issued notifications specifying the "last purchase in the State by a dealer who is not exempt from taxation under section 3" as the point liable to tax in respect of some of the goods specified in the Schedule.

The validity of such a notification dated 28th September 1957 was questioned before the High Court in O. P. No. 12 of 1959 and the High Court has held that as to whether the turnover liable to taxation should be the amount for which goods

are bought or sold by a dealer, has to be determined in accordance with such rules as may be prescribed. It was further held that in the absence of a rule there is no valid provision enabling the State to tax the amount for which the goods were bought by the petitioner. Sub-rule (2) of rule 4 of the rules issued under the Act provides that in respect of goods notified under clause (vii) of section 5 as liable to tax at any point of purchase the gross turnover of a dealer shall be the amounts for which the goods are bought by him. But the High Court held that this rule has been made dependent upon the notification which in itself is beyond the power conferred by section 5 (vii). Accordingly the petition was allowed.

On account of this judgment the levy and collection of sales tax in respect of certain goods could not be proceeded with. Since this would affect the revenues of the State, an Ordinance was promulgated by the Governor on 24-2-1960 to amend the General Sales Tax Act, 1125 suitably and validate the above notifications and the proceedings and orders, taken and issued in pursuance of such notifications.

The Bill is intended to replace the Ordinance by an Act of legislature.

R. SANKAR.

Legislature Secretariat

NOTIFICATION

No. 809|LA.4|60.

Dated, Trivandrum 15th March 1960.

The following Bill together with the statement of Objects and Reasons and the Financial Memorandum attached to it, is published, as ordered by the Speaker under Rule 73 of the Rules of Procedure and Conduct of Business in the Assembly.

D. TIRUMALAI IYENGAR,
Secretary,
Legislative Assembly.

L. A. Bill No. 5 of 1960.

THE PAYMENT OF SALARIES AND ALLOWANCES (AMENDMENT) BILL, 1960

A

Bill

further to amend the Payment of Salaries and Allowances Act, 1951.

Preamble.—WHEREAS it is expedient further to amend the Payment of Salaries and Allowances Act, 1951, for the purposes hereinafter appearing;

BE it enacted in the Eleventh Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Payment of Salaries and Allowances (Amendment) Act, 1960.

(2) It shall be deemed to have come into force on the 22nd day of February, 1960.

2. *Amendment of section 3.*—In section 3 of the Payment of Salaries and Allowances Act, 1951, hereinafter referred to as the principal Act, for the words "five hundred rupees" in both places where they occur, the words "eight hundred rupees" shall be substituted.

3. *Amendment of section 4.*—In section 4 of the principal Act,—

(i) in sub-section (1), for the words "five hundred rupees" in both places where they occur, the words "eight hundred rupees" shall be substituted;

(ii) in sub-section (2), for the words "two hundred and fifty rupees" in both places where they occur, the words "four hundred rupees" shall be substituted.

4. *Amendment of section 8.*—In section 8 of the principal Act, in clause (a) of sub-section (1), for the words "one hundred and fifty rupees", the words "two hundred rupees" shall be substituted.

5. *Amendment of the Schedule.*—In the Schedule to the principal Act,—

(i) under the heading "I. Ministers and Speaker", in sub-clause (c) of clause (1), for the words "six naye paise per mile", the words "twelve naye paise per mile" shall be substituted;

(ii) under the heading "III. Members of the Legislative Assembly",—

(a) for the words "two annas per mile" occurring against the entry "For journeys by rail", the words "twelve naye paise" shall be substituted;

(b) for the words "eight annas per mile" occurring against the entry "For journeys by road", the words "Fifty naye paise per mile" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

It is considered that the salaries of the Ministers, Speaker and Deputy Speaker as also the fixed allowance to the members of the Legislative Assembly provided under the Payment of Salaries and Allowances Act, 1951, are not adequate. It is therefore proposed to raise the salary of the Ministers and the Speaker to Rs. 800 per mensem, the salary of the Deputy Speaker to Rs. 400 per mensem and the fixed allowance of members of the Assembly to Rs. 200

per mensem. According to the existing provisions for incidental expenses for journeys by train, members are entitled to two annas per mile while Ministers and the Speaker are only entitled to six naye paise per mile. This is an anomaly. It is therefore proposed to remove this anomaly by providing for the same rate of incidental expenses as that of members.

The Bill is intended for the above purposes. Opportunity has also been availed of to express certain references to "annas" in terms of the new coins.

FINANCIAL MEMORANDUM

The proposal in the Bill will result in extra expenditure from the Consolidated Fund of the State. The total extra expenditure will amount to Rs. 1,17,240 as shown below:—

1. Increase in salary of Ministers from Rs. 500 to Rs. 800 per mensem	Rs. 39,600 per annum
2. Increase in salary of the Speaker from Rs. 500 to Rs. 800	Rs. 3,600 per annum
3. Increase in salary of Deputy Speaker from Rs. 250 to Rs. 400	Rs. 1,800 per annum
4. Increase in monthly allowance of M. L. As. from Rs. 150 to Rs. 200 per mensem	Rs. 68,400 per annum
5. Increase of D. A. of Ministers, Speaker and Deputy Speaker	Rs. 3,840 per annum
Total	Rs. 1,17,240

This does not take into account the expenditure due to the increase of six naye paise per mile in respect of the incidental expenses for journeys of Ministers.

A. THANU PILLAI.

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